

QUARTERLY REPORT NUMBER ELEVEN DEMOCRACY AND GOVERNANCE: ELECTIONS & POLITICAL PROCESSES IQC

Submitted to:

U.S. Agency for International Development
Under Contract No. AEP-I-00-00-00008-00 (CLIN 003)



Authors:

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Submitted by:

Development Associates, Inc.
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January 2003

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January 17, 2003

Ms. Michele Schimpp
Office of Democracy and Governance (DCHA/DG)
Room 3.10-004 Reagan Building
Agency for International Development
Washington, D.C. 20523-3100

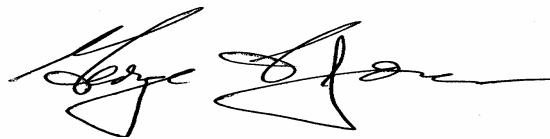
Dear Ms. Schimpp:

The Democracy and Governance – Elections and Political Processes IQC (CLIN 003) that Development Associates currently is implementing for USAID, stipulates that we submit a quarterly Performance Monitoring Report.

Development Associates is providing you as our COTR with the required copy of our report covering the period October 1 to December 31, 2002. We believe this report meets our responsibility under Section G.9 (a) of the contract. A copy of this report is also being sent to our CTO in USAID/Ukraine, in compliance with Part I.H.4 of Task Order 800.

If you have any questions or comments about this submission, please be in touch.

Sincerely,



George F. Jones
Director
Democracy and Governance Programs

Cc: Robert Samuel Taylor, USAID/M/OP/G/DGHCA
Oleksandr Piskun, USAID (email: opiskun@usaid.gov)

Enclosure: As stated

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QUARTERLY REPORT (OCTOBER 1 – DECEMBER 31, 2002) ON THE DEMOCRACY AND GOVERNANCE – ELECTIONS AND POLITICAL PROCESSES IQC (CLIN 003) –AEP I-00-00-00008-00

I. BASIC DATA ON THE TASK ORDERS

- ▶ **Ukraine/Elections and Political Processes Work.** *Contract No. OUT-AEP-I-00-00-00008-00, Task Order 800, Period of Performance: 09/27/2000 - 09/30/03, Amount: \$2,275,000.*

Through several contracts and grants USAID/Ukraine has provided expert advice, professional assistance and educational experiences on the administration of elections to Ukrainian public officials and CSOs. Although substantial progress had occurred, the Mission decided to undertake a follow-up activity through the Elections and Political Processes IQC (CLIN 003). The activity has three main objectives:

- First, to improve the legal framework in order to more effectively ensure open and competitive elections at every level of government;
- Second, to increase the professionalism, competence, and independence of election officials and pollworkers; and
- Third, to increase the competence of Ukrainian civic organizations to monitor and advance adherence to international standards for free and fair elections, for transparent elections procedures, and for public access to the information necessary for an informed electoral choice.

Working with our subcontractor/partners, the Institute for Democracy in Eastern Europe (IDEE) and Mendez-England & Associates, Development Associates is providing a team of long and short-term advisors to this Elections and Political Processes project (DA). Activities include facilitation of seminars and working groups, provision of reference resources, training of trainers and the provision of small grants to Ukrainian civic organizations. The outcome will be increased and more effective citizen participation in political decision-making in Ukraine.

Client References: Oleksandr Piskun, Cognizant Technical Officer, Office of Democratic and Social Transition, e-mail: opiskun@usaid.gov; Winifred Mulligan, Acquisitions Specialist, Contract Office, e-mail: wmulligan@usaid.gov. USAID/Kiev Phone: (380-44) 462-5678, fax (380-44) 462-5834.

II. REPORTING SUMMARY

A. ACTIVITIES CARRIED OUT AND PROGRESS MADE

Activity One: Improve the Legal Framework, So That It More Effectively Ensures Open and Competitive Elections at Every Level

During October, the project assisted the Central Elections Commission (CEC) with the preparations for its international conference on “Elections and Referenda in Ukraine: The Legal Framework and Problems of Its Implementation and Ways of Improvement,” held November 13-15 in Kyiv. Among other things, we gave the CEC lists of foreign election experts and leaders of Ukrainian election-oriented NGOs that we recommended be invited to the conference, and we made suggestions on the conference agenda. Parallel to this event, the CEC celebrated its fifth anniversary.

The conference was partially funded by USAID, using funds from the DA project. Nearly 200 participants attended four plenary sessions, and over 60 participants made presentations. DA translated the English-language presentations into Ukrainian. Special guests included the Elections Commissioners of Russia, Latvia, Lithuania and Azerbaijan, and members of the election commissions of Moldova and Hungary. COP David Kupferschmidt and all of our Activity Managers (AMs) spoke at the conference. After the conference, DA and the CEC started preparing the Conference Proceedings for publication. DA was invited to participate in the work of selecting and editing materials to be included in the book.

Meanwhile, current Ukrainian legislative and political problems were not forgotten. Ukrainian politics remains full of controversy and inconsistency. The fate of attempts to strengthen the role of parties in the political process illustrates this statement. After President Kuchma stated the necessity of strengthening the role of political parties and of moving from a Presidential to a Parliamentary Republic, MPs began to draft new election laws, focusing in particular on enlarging the role of political parties in elections, and proposing to adopt – once again -- a purely proportional parliamentary election system. The project’s Activity Managers (AMs) were invited in October to consult with an informal working group of MPs engaged in drafting new election laws, headed by MP M. Katerynychuk. Three draft laws aimed at strengthening the rights of political parties in both parliamentary and presidential elections were submitted to the Verkhovna Rada (VR) between November 18 and 28. However, the Parliamentary majority that supports the President has not endorsed any of the drafts. These developments were discussed in our Election Update #54.

With the formation of a pro-presidential majority in Parliament, change now appears unlikely. The opposition is neither strong nor numerous enough to force changes in legislation. The author of one of the rejected parliamentary election bills, MP Stepan Havrysh, asked us to prepare a comparative analysis of both of the rejected draft laws regarding their compliance with international election standards.

Development Associates, in cooperation with the Election Law Institute, conducted a seminar on October 23 devoted to problems of compilation and clarification of voters’ lists, and design of the National Voters’ Register. There were 40 participants, including MPs, journalists, representatives of the Ministries of Interior and Justice and the Tax Administration, the

Presidential Representative in Parliament, representatives of USAID, members of the Rivne City Council, and members of the Central Election Commission (CEC). The active discussion following the presentations was facilitated by the moderator, MP Yu. Kliuchkovskyi, and by DA staff. The event was covered in the national mass media.

The transcript from DA's September 25 seminar, on the key problems of the Presidential Election Law, was distributed to participants and MPs.

Another interesting development in the election domain is the use of information technology in the election process. Although the CEC has used its IT system in four elections, significant problems remain, for example: financing software development, establishing the legal status of electronic documents, designing an electronic Voters' Register, and ensuring the security of information. Since these problems have not been discussed in either the mass media or in any public institution, DA, in cooperation with the Election Law Institute, organized a workshop on the role of IT in the election process. This workshop, which took place in the VR on November 20, was attended by members of the VR's Committee on State-Building and Local Self-Governance (responsible for developing election legislation), members of the State Committee on Communication and Information, representatives of the mass media, and representatives of the private firms that developed software for the CEC IT system and connected it to all the constituency election commissions. More than 65 people attended this event. DA gave all participants a compendium of laws from other countries concerning IT and copies of draft laws on electronic documents and digital signature. The transcript of DA's October seminar in the VR, on the problems of compilation and clarification of voters' lists, also was distributed.

The by-elections in Melitopol and Netishyn in December showed that there are gaps in, and lack of integration between, numerous laws regulating the election process and that the further improvement of election legislation is necessary.

To foster this process, DA organized at the Verkhovna Rada on December 11 a seminar on improvements of the mechanisms for election dispute settlement. Members of the Central Election Commission, Supreme Court Judges, Appeals Court Judges, MPs and DA staff discussed current problems of election dispute settlements from different perspectives. Lively discussions followed the presentations. More than thirty people attended the event.

DA translated a selection of international standards on elections used by the OSCE and posted both the English and Ukrainian versions on the Project's website to stimulate debates on the compliance of Ukrainian election legislation with international law. We also prepared and circulated Election Update #55 discussing the new residence registration draft-law passed by the VR on first reading and its potential influence on the election process.

Activity Two: Increase Professionalism, Competence and Independence of Ukrainian Election Officials and Pollworkers

A new Plan of Cooperation between USAID and the CEC for July-December 2002 was signed on October 10.

DA's unique training program for election commissioners and party observers continued apace during this quarter, in preparation for by-elections in Khmelnytsky (mayoral elections,

November 10), Melitopol (Parliamentary, December 8) and Netyshyn (mayoral, December 15). The CEC adopted a resolution endorsing DA's training in constituency no. 82 (Melitopol).

Activity Manager Olexander Vorobyov prepared a training program for pollworkers/pollwatchers for the mayoral by-election in Khmelnytsky. He visited Khmelnytskyi on October 24-25 to meet with territorial election commission heads, candidates, and leaders of election-oriented NGOs and discuss the training sessions scheduled for November 7-8. Vorobiov and Deputy Chief of Party V. Kovtunets conducted this training, which was attended by approximately 300 commissioners, poll workers, and party observers. Additionally, Mr. Vorobyov observed the election on Election Day.

In anticipation of the election in Melitopol, AMs S. Kalchenko and O. Barabash conducted two seminars for election commissioners, candidates' teams, and observers November 22 – 23, at the request of, and in cooperation with, constituency election commission #82. Twenty-eight people attended the seminar on Nov. 22, including candidates, their proxies and representatives, and local mass media. This hotly contested election was rife with allegations of bribery of voters; consequently, DA focused its training on:

- ▶ Legislation governing by-elections: the formation of poll station commissions and registration of party and candidate observers;
- ▶ Liability for election violations;
- ▶ Rules for conducting election campaigns in by-elections; and
- ▶ Fact finding on election violations by the courts.

At the second seminar in Melitopol, on November 23, Kalchenko and Barabash conducted a workshop for constituency election commissioners. All 15 members of the CoEC participated. The key issues discussed were:

- ▶ Legal status of election commissioners, and especially their participation in election campaigns;
- ▶ Peculiarities in the procedure of forming poll station commissions in by-elections; and
- ▶ Liability for election violations.

In Netyshyn, on November 22, Kovtunets and Vorobiov conducted two workshops on election legislation for election commissioners, candidates and their teams. CEC member M. Stavnichuk participated in this training. Kovtunets and Vorobiov provided technical briefings to the territorial election commission and to the candidates running for mayor in Netyshyn on December 14, and then observed the Netyshyn elections on December 15.

Participants in the Khmelnytsky, Melitopol and Netyshyn training sessions received the following materials:

- ▶ Parliamentary Election Law or the local election Law, as applicable;
- ▶ Applicable CEC resolutions on Local Elections;
- ▶ DA's Practical Recommendations for poll workers and observers
- ▶ Flyer for Pollworkers;
- ▶ Flyer for observers;

- ▶ Samples of election documents: protocols, acts, complaints, etc.; and
- ▶ Questions and answers concerning local or parliamentary elections.

In addition, in Melitopol, AMs O. Barabash and S. Kalchenko conducted on December 5 a workshop for the heads of the candidates' election teams and proxies, and another on December 6 for the heads, deputy heads and secretaries of all polling stations in the constituency. The total number of participants was approximately 340 persons.

Our AMs also attended several court hearings of election cases and discussed election adjudication practice in Ukraine with the ex-chair of the Melitopol City Court, currently a judge of this court, Mr. Viktor Fomin. The AMs also provided Constituency Election Commission #82 with technical assistance and consulted with them on numerous legal questions regarding the conduct of the election, before, during and after Election Day. Barabash and Kalchenko observed the by-elections in Melitopol City and its suburbs on December 8 at 32 poll stations, and prepared an election observation report.

Activity Three: Increase Capacity of Ukrainian CSOs to Monitor and Advance Transparent Election Procedures and Increase Public Access to Electoral Information

a. Second and Third Small-Grant Programs

October 4 was the deadline for NGOs to submit questions concerning the two small-grant programs announced by DA in September. DA/Kyiv and DA/Washington staff analyzed the questions and prepared answers. The questions and answers were distributed to all grant applicants and our NGO e-mailing list and posted on the project web-site.

By the deadline for applications on October 18, we had received 38 grant applications.. After a thorough review we selected 25 which met minimum requirements and had submitted all necessary documents. The Grant Selection Committee, chaired by DA's Grant Manager, Serhii Kalchenko, met on October 28 and selected seven organizations which met all the requirements and appeared to be able to perform the tasks of the grant programs. In addition, the Committee recommended a special grant to an organization whose application, although it did not fall within the scope of tasks defined by the invitation for applications, was of such merit that it deserved an award.

A team of four DA/Kyiv staff members met with all finalists in November to discuss their proposals. The team met with grant finalists in Kharkiv and L'viv, and visited the offices of the Kyiv-based NGO finalists. We requested several modifications to the finalists' technical proposals, to better fit the current needs of Ukraine, and requested budget reductions, to better fit USAID's available funding. We also conducted due diligence on the organizations' grant management capabilities. D. Kupferschmidt, Chief of Party, and S. Kalchenko, grants manager, prepared grant agreements for finalists of the second and third grant programs (comparative analysis of election legislation and election curriculum development, respectively) and submitted them to the USAID Contracts Officer for approval on December 29.

b. Fourth Small-Grant Program

In December, DA announced its fourth and final small grant program for Ukrainian NGOs, implementing Activity Three of our Workplan, posted the Invitation for Applications (IA) in

both English and Ukrainian on our website, and sent the IA to our mailing list of 440 subscribers, including around 200 NGOs. In addition, we advertised the grant program in the following national newspapers:

- ▶ *Day* (Ukrainian)
- ▶ *Holos Ukrainy* (Ukrainian)
- ▶ *Kyiv Post* (English)

We began preparation of the answers to questions submitted by would-be grantees and will distribute them in January, following the deadline for prospective grantees to submit their questions.

c. Other NGO-Strengthening Activities

DA's Deputy Chief of Party, Dr. Volodymyr Kovtunets, and Professor Volodymyr Kampo conducted a seminar for NGO representatives in Mykolaiv on October 12. There were 29 participants, representing 11 NGOs from Mykolaiv, Odesa, and Kherson oblasts. Participants were trained in informing voters about the election process, monitoring elections, and lobbying for their interests before state and local self-governance bodies. Dr. Kovtunets also used this seminar as an opportunity to advertise the DA grant programs for NGOs.

During his visit to Mykolaiv, Dr. Kovtunets met with election activists from the NGOs "My City" and "Prosvita", and the following political parties/blocs:

- ▶ Our Ukraine
- ▶ Socialist party
- ▶ Communist Party
- ▶ Reforms and Order Party
- ▶ Rukh party.

He also obtained copies of election commissions' and courts' decisions on election cases in the Mykolaiv region which will be used for further analysis of election law enforcement.

Also during October, AMs Serhii Kalchenko and Oleksander Vorobyov conducted a seminar for NGO representatives in Simferopol. There were 30 participants, representing 18 local NGOs. The objective of the seminar was to analyze and discuss the role of NGOs in Crimea, and ways to promote their effective participation in elections. DA's grant programs also were discussed. During their visit to Simferopol, Vorobyov and Kalchenko met with:

- ▶ Head of Election Commission of Crimea, Mr. Mykhailo Malyshev, and Deputy Head Mr. Oleksii Kondratenko to discuss tentative areas of cooperation between the EC of Crimea and DA on improving the Crimean VR's election legislation;
- ▶ Judge of the Appeals Court of Crimea, Ms. Antonina Kurska, to discuss the case law on disputes related to parliamentary and local elections, and elections to the Crimean VR;
- ▶ representatives of the League of Crimean Tatar lawyers "Initium" to discuss the elections process in Crimea.

DA organized the fifth in a series of regional seminars on “NGOs in the Election Process” in Netishyn on November 23. DA’s V. Kovtunets and O.Vorobyov trained NGO leaders from Kmelnytskyi, Rivne, Zhytomyr and Ternopil oblasts. Thirty participants attended the seminar, at which the following problems were discussed:

- ▶ Experience of NGOs in the 2002 elections
- ▶ Strategic planning for NGO participation in the 2004 election
- ▶ Potential role of NGOs in training election commissioners and observers
- ▶ Delivering information to voters on the election process
- ▶ Monitoring elections
- ▶ Lobbying for NGO interests

Participants were also informed of the upcoming fourth grant program and were given the following materials:

- ▶ Analysis of Election Legislation Enforcement in 2002 Elections
- ▶ Analysis of the Law of Ukraine On the Presidential Elections
- ▶ Analysis of the Courts’ and Election Commissions’ Scrutiny of Complaints and Petitions by participants in the Parliamentary Elections Process
- ▶ Notes on CSOs’ Lobbying Strategies and Techniques: The Ukrainian Experience.

Other Activities

Oleksander Babarash participated in an October 18 conference on “Political Parties in Past and Future Elections”, organized by the Democratic Initiative Foundation and the Foundation “Europe XXI.” Serhii Kalchenko took part in the Congress of Judges of Ukraine on October 24.

Halyna Senyk took a week off in October to go to an international conference on Crime, Public Order and Human Rights organized by the Carnegie Council on Ethics and Culture and the International Council on Human Rights Policy in New York. Ms. Senyk researched the activity of Ukrainian human rights NGOs on protecting human rights abused by law enforcement institutions while engaged in curbing crime.

DA arranged for CEC member V. Spivak to participate in a U.S. Election Study Tour at the time of the November Congressional elections, and assisted with the participation of two other CEC members, V. Alsufiev and Yu. Danylevskyi. They observed voting at several polling stations in Virginia and the District of Columbia. In preparation for their trip, DA translated into Ukrainian a short primer on the US election system written by Ambassador George Jones, Director of the Democracy and Governance Center at DA Headquarters, and provided it to the three CEC members. It was also posted on the DA/Washington and DA/Kyiv websites.

In December, the “Our Ukraine” bloc requested Development Associates to assist in training their election activists for the upcoming presidential elections. DCOP V. Kovtunets met with the bloc’s leaders, Roman Bezsmertnyi and Mykola Katerynychuk, and discussed the possibility of providing such technical assistance on a non-discriminatory, non-partisan basis.

Website

During October, the Project's website was developed in the following ways:

- a. Development of an election news e-mailing list
- b. Flash-animation of the heading of the grant programs section
- c. Updating of the "News" section
- d. New materials in the "Publications" section
- e. Improvement of the site structure to improve its ability to store copious amounts of information

In November, our IT manager, A. Dolganskyi, collected a knowledge base for designing an on-line training course for district election commission members appointed to serve during the 2004 presidential election.

B. PERSONNEL CHANGES

Our Translator, Oksana Tsypnyak, left the project at the end of November to accept a better-paying job at the U.S. Embassy. Executive Assistant Maryna Selivanova completed a three-month leave of absence to attend a prestigious human rights course at Nottingham University, U.K., and returned to our Kyiv office in December. She was promoted to the Translator position. Anna Zhytnikova became the new Receptionist and Program Assistant.

C. BUDGET CHANGES

There were no modifications to the project budget during the quarter.

D. UNRESOLVED ISSUES OR CONSTRAINTS

None.

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IV. RESULTS FROM COMPLETED TASK ORDERS

No task orders were completed during this quarter.

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